UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,954	10/04/2001	Robert D. Glaser	REALNET.1C1C2	5632

			EXAMINER
20995	7590	01/20/2004	LIN, WEN TAI

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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	**Applicant(s)**
		09/971,954	GLASER ET AL.
Office Action Summary		**Examiner**	**Art Unit**	
		Wen-Tai Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 June 2002*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All b)☐ Some * c)☐ None of:
   1.☐ Certified copies of the priority documents have been received.
   2.☐ Certified copies of the priority documents have been received in Application No. _____.
   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
   since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
   37 CFR 1.78.
   a) ☐ The translation of the foreign language provisional application has been received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
   reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.   Claims 1-21 are presented for examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 20-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the claimed aggregation of media data appears to be an arrangement of audio and visual data independent of any physical element and contains no implication of operational steps.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. [U.S. Pat. No. 5572442] in view of Rebane et al. [U.S. Pat. No. 5978567].

6.   As to claim 1, Schulhof et al. taught an invention substantially as claimed including an audio player, comprising:

-   a processor [64, 66, Fig.2; col. 12, lines 35-42];

-   a memory connected to said processor [50, Fig.2];

-   an audio data buffer allocated in said memory to store audio data received from an audio server in response to an audio selection signal, said audio data representing an audio clip [col. 14, line 57 – col. 15, line 10];

-   an audio transducer connected to said processor [46, Fig.3];

-   and playback software running on said processor, said playback software converting said first audio data into analog audio data [123, 124, Fig. 3].

Schulhof et al. did not specifically teach that

-   the audio clip is partitioned into first and second audio data, wherein said second audio data representing a second portion of said audio clip, said first audio data received before said second audio data, and said audio transducer generating sound from said analog audio data before said receipt of said second audio data;

-   a metadata buffer allocated in said memory to store metadata received following said audio selection signal; and said playback software converting said metadata into a visual format.

However, Rebane et al. taught a system and method for distributing multimedia data over the network by

- partitioning the audio clip into first and second audio data, wherein said second audio data representing a second portion of said audio clip, said first audio data received before said second audio data [i.e., by segmenting the audio clip into multiple chunks of data, wherein the first piece of data is sent before the second piece of data; col. 3, lines 55-62];

- said audio transducer generating sound from said analog audio data before said receipt of said second audio data [i.e., the segmented bursting supports "just in time" ordering; col.4, lines 9-15. It is noted that, in order to reduce the storage size, the second data is transmitted "just in time" for real-time playback. This is an indication that receiving of the second data can be delayed until the audio transducer start generating sound from the first data, during which the communication channel could be used for transmitting data to other subscribers]; and

- a metadata buffer allocated in said memory to store metadata received following said audio selection signal; and said playback software converting said metadata into a visual format [i.e., a third piece of data (the metadata which includes information regarding file characteristics, content dependent information etc.) is combined with the multimedia data to form a completed, wrapped and segmented program. The metadata is received following the selection indicated by the subscribers and is

temporarily stored in memory before being converted into a visual format. See col.8,

lines 47 – 67; col.9, lines 13 – 36; col.15, lines 13-20].

It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Schulhof et al. and Rebane et al. by transmitting Schulhof et

al's audio data and metadata in "just in time", segmented bursting because, by doing so, the data

buffer size of Schulhof et al's system can be minimized and its communication resources can be

fully utilized by as many subscribers as possible [Rebane et al: Abstract, lines 9-13].

7.   As to claim 2, Rebane et al further disclosed that each segmented data is transmitted to

the receiving system component in less than real-time on an as-needed basis. Furthermore,

Rebane et al. taught that the system includes a proactive module that predict system usage (so

that communication resources could be dynamically adjusted according to the traffic) [Abstract,

lines 6-13; col. 7, lines 24-33; note that, since the data transfer rate could vary from time to time,

thus, it is obvious that the data buffer in Rebane et al's system must be dynamically resized to

meet the requirement for seamless playback].

8.   As to claim 3, Rebane et al further taught that the metadata and its associated audio clip

(which contains at least the first and the second segments) are correlated [Fig.2; col.9, lines 13-

36; col.15, lines 16-20; that is, since the metadata is a content-dependent information, its

correlation with the audio clip is obvious. On the other hand, the sequentially segmented data

chunks are also correlated to each other because their sequential order can not be changed due to

Rebane et al's "just in time" and "as needed" criteria. Additionally, when transferring audio

stereo data to the subscribers, it is well known that the left and right channels, which in this case

constitute two respective segments of data (i.e., a first and second audio data each corresponding

to the left and right channels) are highly correlated].

9.   As to claim 4, Schulhof et al. further taught that the audio player includes a display

connected to said processor [79, Fig.4; col. 12, lines 58-67]. Additionally, Rebane et al taught

that the metadata is a presentation asset that can be presented on a screen in the form of text, still

picture and audio/video sequences etc. [col.6, lines 47-59]

10.   As to claims 5 and 8, Schulhof et al. and Rebane et al. did not specifically teach how the

metadata is presented on the display unit (i.e., relative to the playback of audio data). However,

since there is no rigid relationship between the audio and metadata choices in Schulhof et al. and

Rebane et al's system and there are have different ways of packing them [col.9, lines 13-36], it is

obvious that some sort of adjustment in the timing of playing the audio data and displaying the

metadata could be made. In light of this, it is obvious to one of ordinary skill in the art that (1),

delaying the presentation of said metadata following its receipt and (2), presenting the visually

formatted metadata before the audio transducer generates the sound are simply design choices in

Schulhof et al. and Rebane et al's system.

11.   As to claims 6-7 and 9-19, they are rejected for the same reasons set forth in the rejection

of claims 1-5 and 8.

12.   As to claims 20-21, Schulhof et al. and Rebane et al. taught an aggregation of

multimedia data comprising:

- first media data in a first memory area, said first media data representing a first

    portion of an audio clip received from a remote audio center, said first media data

    used to generate sound prior to a time t1 [i.e., a first segmented audio data is received

    prior to t1 and stored in a first portion of a storage medium, as shown in 50, Fig.2 of

    Schulhof et al.];

- second media data in a second memory area, said second media data representing a

    second portion of said audio clip, said second media data received from said remote

    audio center after said time t1 [i.e., a second segmented audio data is received after t1

    and stored in a second portion of a storage medium as shown in 50, Fig.2 of Schulhof

    et al.];

- third media data in a third memory area, said third media data used to generate a

    visual display before said time t1 [e.g., the first and second are segmented audio data

    and the third is a piece of metadata organized as P1 (first data), P3 (second data) and

    P2 (metadata) in Fig. 2 of Rebane et al., wherein t1 is a time stamp between P2 and

    P3]; and

- said first, second and third media data received in response to an audio selection

    signal [e.g., the transaction is initiated by a subscriber by clicking on a program

    manual].

13.   As to claim 21, Schulhof et al. and Rebane et al. disclosed that the system further

comprise a fourth media data representing a third portion of said audio clip, said fourth media

data received from said remote audio center after said receipt of said second media data, said

fourth media data at least partly stored in said first memory area [that is, the fourth media data is

the third segmented audio data in Schulhof et al. and Rebane et al's system. Furthermore,

because of the "just in time" burst transmission mode, a portion of the third media data could be

stored in part of the first memory, which has being evacuated for a subsequent segmented data as

the former is being converted into sound].

14.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

       Rebane et al. [U.S. Pat. No. 5978567];

       Short [U.S. Pat. No. 4849817];

       Rozmanith et al. [U.S. Pat. No. 5253341];

       Chewning et al. [U.S. Pat. No. 5416831];

       Scott et al. [U.S. Pat. No. 5666291];

       Lightfoot et al. [U.S. Pat. No. 5682325];

       Koz et al. [U.S. Pat. No. 6188428]; and

       Kostreski et al. [U.S. Pat. No. 5635979], disclosed various systems and methods for

delivering multimedia data to end users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

1/13/04

January 13, 2004